

ORIGINALDecision No. 69525

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 (a) HOLIDAY TRANSPORTATION, for)
 authority to issue shares of its)
 common capital stock pursuant to)
 Sections 816-830 of the California)
 Public Utilities Code. (b) DEWEY L.)
 HOLLIDAY, an individual doing)
 business as DEWEY L. HOLLIDAY, to)
 sell and HOLIDAY TRANSPORTATION, a)
 corporation, to purchase cement)
 carrier operating rights and)
 property, pursuant to Sections 851-853)
 of the California Public Utilities)
 Code.)

Application No. 47553
 (Filed May 4, 1965)

O P I N I O N

The purpose of this application as last amended on July 16, 1965 is to secure authorization of the Commission for Dewey L. Holliday (hereinafter called "seller") to sell and transfer to Holiday Transportation (hereinafter called "buyer") certain operating equipment and a certificate of public convenience and necessity to operate as a cement carrier (Ex Parte Resolution No. 13821, Sub. No. 41, dated June 23, 1964, in Application No. 46567) to and within the Counties of Kern, Los Angeles, Orange, Riverside, San Bernardino, San Diego, Santa Barbara, Shasta and Ventura from any and all points of origin. Buyer also requests authorization to issue stock and to assume certain equipment contract obligations.

It is alleged that seller is presently conducting operations as a cement carrier under the certificate of public convenience and necessity herein sought to be transferred. Seller

is desirous of retiring from the cement carrier business due to his inability to continue with the financial rigors of the transportation operations. Authorization of the sale of his certificate to buyer will ensure that the shipping public will continue to receive the service which seller has been providing under his certificate. It is alleged that buyer is operated and staffed by persons experienced and trained in the technicalities of the physical transportation of cement in bulk and sacks and that buyer is and will be adequately financed and equipped to carry on the business activities of seller.

Buyer is a newly formed corporation and seeks authorization to issue 120 shares of its common capital stock without par value on the basis of \$100 per share to Theron N. Bohannon, Don A. Bohannon and Donald K. Mullins in consideration of cash, and 391 shares of said stock to Theron N. Bohannon in consideration of the deposit to the corporate bank account of \$36.17 in cash by said Theron N. Bohannon and the discharge of a note payable to Theron N. Bohannon in the principal sum of \$39,063.83. A pro forma balance sheet as of April 1, 1965 giving effect to the proposed transactions is attached to the second amendment to the application as Exhibit "D". It indicates total assets of \$149,855.23.

The price proposed to be paid to seller is \$30,640 and comprises two tractors and four trailers independently appraised at \$30,000, as well as \$300 for the certificate and \$340 for good will. Applicant buyer is also assuming equipment obligations of \$98,755.23 which represent indebtedness applicable to one tractor, three transit-mix trucks and six trailers. There are no protests to the granting of this application, although counsel for Max Binswanger et al. has requested the insertion of what is commonly

known as a subhaul restriction in the certificate. Buyer's counsel has agreed by letter to such a restriction.

After consideration the Commission finds that the proposed transfer and assumption of indebtedness would not be adverse to the public interest, that the application should be granted, and that the money, property or labor to be procured or paid for by the issue of the stock authorized herein is reasonably required for the purposes specified herein, and such purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income. A public hearing is not necessary. The authorization granted shall not be construed as a finding of the value of the rights and properties herein authorized to be transferred.

Holiday Transportation is hereby placed on notice that operative rights, as such, do not constitute a class of property which may be capitalized or used as an element of value in rate fixing for any amount of money in excess of that originally paid to the State as the consideration for the grant of such rights. Aside from their purely permissive aspect, such rights extend to the holder a full or partial monopoly of a class of business over a particular route. This monopoly feature may be modified or canceled at any time by the State, which is not in any respect limited as to the number of rights which may be given.

O R D E R

IT IS ORDERED that:

1. On or before September 30, 1965, Dewey L. Holliday may sell and transfer, and Holiday Transportation, a corporation, may purchase and acquire, the operative rights and property referred to in the amended application.

2. Within thirty days after the consummation of the transfer herein authorized, Holiday Transportation shall notify the Commission, in writing, of that fact and within said period shall file with the Commission a true copy of any bill of sale or other instrument of transfer which may be executed to effect said transfer.

3. Holiday Transportation shall amend or reissue the tariffs on file with the Commission, naming rates and rules governing the cement carrier operations herein to show that it has adopted or established, as its own, said rates and rules. The tariff filings shall be made effective not earlier than thirty days after the effective date of this order on not less than thirty days' notice to the Commission and the public, and the effective date of the tariff filings shall be concurrent with the consummation of the transfer herein authorized. The tariff filings made pursuant to this order shall comply in all respects with the regulations governing the construction and filing of tariffs set forth in the Commission's General Order No. 117.

4. Holiday Transportation, for the purposes and under the conditions set forth in this application, as amended, may issue not to exceed 511 shares of no par common stock, after the effective date of this order.

5. Holiday Transportation is authorized to assume the equipment contracts set forth in Exhibit "D" of the amended application.

6. Holiday Transportation shall file with the Commission a report, or reports, as required by General Order No. 24-B, which order, insofar as applicable, is made a part of this order.

7. On or before the end of the third month after the consummation of the transfer as herein authorized, Holiday Transportation shall cause to be filed with the Commission, in such form as the Commission may prescribe, an annual report, or reports, related to the operations of the seller for the period commencing with the first day of the current year to and including the effective date of the transfer.

8. Concurrently with the effective date of tariff filings required by ordering paragraph 3 hereof, the operative right granted by Resolution No. 13821, Sub. No. 41, dated June 23, 1964, in Application No. 46567, is hereby revoked and, in place and stead thereof, a certificate of public convenience and necessity to operate as a cement carrier, as defined in Section 214.1 of the Public Utilities Code, is hereby granted to Holiday Transportation, a corporation, as more particularly set forth in Appendix A attached hereto.

The effective date of this order shall be ten days after the date hereof.

Dated at San Francisco, California, this 10th day of AUGUST, 1965.

Fredrick B. Hallock
President
John E. [unclear]
Attorney
William B. [unclear]

Commissioners

Commissioner George G. Grover, being necessarily absent, did not participate in the disposition of this proceeding.

Holiday Transportation by the certificate of public convenience and necessity granted in the decision noted in the margin is authorized to operate as a cement carrier to and within the Counties of Kern, Los Angeles, Orange, Riverside, San Bernardino, San Diego, Santa Barbara, Shasta and Ventura from any and all points of origin (See Restriction).

RESTRICTION: Whenever Holiday Transportation engages other carriers for the transportation of property of Bonanza Concrete, or customers or suppliers of said Bonanza Concrete, Holiday Transportation shall pay such other carriers not less than the rates and charges published in the Holiday Transportation tariffs on file with this Commission.

End of Appendix A

Issued by California Public Utilities Commission.

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